

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 05-15809
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT SEPT 06, 2006 THOMAS K. KAHN CLERK
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D. C. Docket No. 99-00010-CR-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANGEL GIOVANNY MERCADO,
a.k.a. Giovanni Angel Mercado-Cervantes,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Georgia

(September 6, 2006)

Before TJOFLAT, ANDERSON and BIRCH, Circuit Judges.

PER CURIAM:

Pursuant to a plea agreement, appellant pled guilty on August 10, 1999 to

conspiracy to distribute and possess with the intent to distribute heroin, cocaine, and cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and 846, and on December 1, 1999, the district court sentenced him to prison for 180 months. He is now serving that sentence in a federal prison.

On June 11, 2003, appellant moved the district court to compel the Government to state why it had not filed a Fed. R. Crim. P. 35(b) motion to reduce his sentence for rendering substantial assistance. The court denied the motion in an order entered on September 26, 2005. Record, Vol 2, at 237. Appellant now appeals the court's ruling.

For the reason stated in the district court's September 26, 2005 order, we conclude that the court properly denied appellant's motion.

AFFIRMED.